

Application Serial No. 10/633,702
Reply to Office Action dated March 23, 2005

REMARKS/ARGUMENTS

The outstanding Office Action sets forth a species restriction requirement between Group 1 identified by claims 1-8 and 94; Group 2 identified by claims 9-10 and 95; and Group 3 identified by claims 11-93 and 96. The Examiner has indicated that claim 1 is considered generic to all of the species. For at least the reasons presented below, it is respectfully submitted that this restriction is improper and should be withdrawn.

I. Generic Claim 1

A first major flaw in connection with the restriction requirement presented is that the Examiner has indicated claim 1 to be generic, yet this claim is not part of the species of Groups 2 and 3. It is unclear to the Applicant how claim 1 can read on each of the species of Groups 2 and 3 and yet not be part of either of these groups if one of these groups is elected. Given that claim 1 is stated to be generic, it would have to follow that each of the groups would need to include this claim if the restriction requirement was at all considered to be proper.

II. Species Identified With Claims

The Examiner has identified the species in the present application by identifying claims. It is respectfully submitted that claims are never species as set forth in M.P.E.P. § 806.04(e). Typically, species are set forth by showing different embodiments illustrated in the drawings and are therefore commonly identified by different embodiments of the invention shown in respective figures. Regardless of whether the species are illustrated, a species must be different embodiments of a single invention wherein the various embodiments usually have no relationship therebetween. In any case, identifying the species claims is seen to be improper.

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III. Mutually Exclusive Characteristic of Species

Considered most important in connection with a species restriction is that the different species must be mutually exclusive (see M.P.E.P. § 806.04(f)). To this end, one species cannot be utilized in combination with another species. This is not the case in connection with the subject matter outlined by the Examiner. For instance, Groups 2 and 3 are both directed to a mass spectrometer and method comprising an ion trap and one or more axial trapping regions translated along an axial length with an initial first velocity. The claims identified under Group 2 concern the reduction of a first velocity to less than or equal to 50 m/s. For the claims identified in Group 3, the first velocity is reduced to substantially zero. These two velocity ranges are not mutually exclusive. Instead, the less than or equal to 50 m/s limitation covers both arrangements. In addition, Group 1 is concerned with a mass spectrometer method comprising an ion trap and the formation of trapping regions at a second time. Therefore, all the claim groups have limitations concerning a mass spectrometer and method comprising an ion trap and trapping regions. The time limitation of Group 1 is not mutually exclusive to the velocity limitations of Groups 2 and 3. Clearly, the Applicant could present a claim which has both the time and velocity limitations. This fact evidences the non-exclusive nature of this claim subject matter.

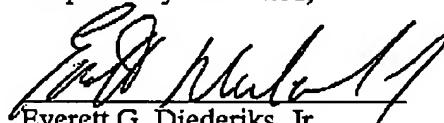
Based on the above, it is respectfully submitted that a species restriction in connection with the claim subject matter of the present application is improper. The Applicant understands that the present application includes a considerable number of claims and does not wish to burden the Examiner during the examination process. However, it is respectfully submitted that all the apparatus and method claims are clearly related in the subject matter claimed, with the claims in each of Groups 1, 2 and 3 pertaining to an ion trap comprising a plurality of electrodes and one or more axial trapping regions. Considering this narrowed field in combination with the time and velocity limitations of the various claims should aid the Examiner in pinpointing the necessary classification search areas for the overall invention.

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As indicated above, it is respectfully submitted that the species restriction presented in this case is improper such that withdrawal of the species restriction and examination of the entire application is respectfully requested. However, in order to fully respond to the Office Action as required in the middle of page 3, the Applicant would elect with traverse Group 2. Again, the claims set forth for Group 2 have a particular relationship with the other claims, e.g., claim 9 of Group 2 recites that the first velocity is progressively reduced to a velocity less than or equal to 50 m/s, whereas claim 11 of Group 3 merely limits this velocity further to being substantially zero. Therefore, it is considered that claim 9 is actually generic to the more limiting velocity of claim 11. To this end, it is respectfully submitted that at least claims 1, 9-93, 95 and 96 would read on this velocity-based aspect of the invention, while at least dependent claims 37-39 link this velocity aspect to the time aspect of the remaining claims of Group 1.

In any case, after reconsideration of this restriction requirement, examination of the application based on prior art is respectfully requested. If the Examiner should have any questions regarding this response, the Examiner is cordially invited to contact the undersigned at the number provided below to further expedite the prosecution.

Respectfully submitted,



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